

IT IS ORDERED as set forth below:

Date: August 20, 2020



Lisa Ritchey Craig
U.S. Bankruptcy Court Judge

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN THE MATTER OF:	:	CASE NUMBERS
	:	
LASHONE MONIQUE GARTH,	:	BANKRUPTCY CASE
	:	18-50808-LRC
Debtor.	:	
	:	
	:	
THE DREAM CENTER,	:	ADVERSARY PROCEEDING
CHURCH, INC.	:	NO. 18-05059-LRC
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
LASHONE MONIQUE GARTH,	:	IN PROCEEDINGS UNDER
	:	CHAPTER 7 OF THE
Defendant.	:	BANKRUPTCY CODE

ORDER GRANTING MOTION TO DISMISS

Before the Court is a *Motion to Dismiss* (Doc. 21) (the “Motion”) filed by LaShone Monique Garth (“Defendant”). The Motion arises in connection with a complaint (Doc. 1)

(the “Complaint”) filed by the Dream Center Church, Inc. (“Plaintiff”) seeking a nondischargeability determination of unpaid rent owed by Defendant pursuant to § 523(a)(2), (a)(4), and (a)(6).¹ The Motion seeks dismissal of the Complaint for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure, made applicable to this adversary proceeding by Rule 7041 of the Federal Rules of Bankruptcy Procedure, and Bankruptcy Local Rule (“BLR”) 7041-1. Plaintiff has not responded to the Motion, and it is therefore deemed unopposed. *See* BLR 7007-1(c) (“Any party opposing a motion must file and serve the party’s response. . . [f]ailure to file a response indicates no opposition to the motion.”) This matter constitutes a core proceeding, over which this Court has subject matter jurisdiction. *See* 28 U.S.C. §§ 157(b)(2)(I); 1334(b).

Defendant filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code on January 18, 2018 (the “Petition Date”). *See* Case No. 18-50808-LRC, Doc. 1 (the “Bankruptcy Case”). On March 18, 2018, Plaintiff initiated this adversary proceeding by filing the Complaint. On April 10, 2018, Defendant filed its answer to the Complaint (Doc. 5) (the “Answer”). Plaintiff then conducted discovery, including a deposition of Defendant on September 18, 2018, and serving Defendant with written discovery on December 21, 2018. *See* Doc. 16, 18. However, no further action has been taken by Plaintiff in this adversary proceeding since December 21, 2018. Additionally, on April 13, 2020, counsel for Plaintiff filed a Motion to Withdraw as Counsel (Doc. 20) (the “Motion to Withdraw”). No response or objection to the Motion to Withdraw has been filed.

¹ Unless otherwise stated, all references to sections are to Title 11 of the United States Code and all references to docket numbers are to the adversary proceeding docket.

Rule 41(b) of the Federal Rules of Civil Procedure provides in relevant part that “a defendant may move to dismiss [an] action” “if the plaintiff fails to prosecute.” Further, BLR 7041-1 provides in relevant part that “[t]he Bankruptcy Court may, with or without notice to the parties, dismiss an adversary proceeding or contested matter for want of prosecution if: (1) [a] plaintiff or movant willfully fails or refuses to make an adversary proceeding or contested matter ready for placement on the trial calendar; [or] ... (3) [a]n adversary proceeding or contested matter has been pending in the Bankruptcy Court for more than six months without any substantial proceedings of record having been taken, as shown by the record docket.”

Here, this adversary proceeding has been pending since March of 2018 with the last document filed by Plaintiff on December 21, 2018. Further, Plaintiff did not file a response to the Motion. Accordingly, the Court finds that Plaintiff has willfully failed to make this case ready for trial and has not taken any substantial proceedings of record. Thus, the Court finds that this case should be dismissed for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure and BLR 7041-1. For these reasons,

IT IS HEREBY ORDERED that the *Motion to Dismiss* (Doc. 21) (the “Motion”) filed by LaShone Monique Garth (“Defendant”) is **GRANTED**.

IT IS FURTHER ORDERED that this case is **DISMISSED** pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and BLR 7041-1.

END OF DOCUMENT

Distribution List

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